

## **Remarks**

### **Introduction**

Claims 1, 4, 6-13, 15, 17-23, 26, 28-35, & 38 were presented and rejected. Applicant amends none of these claims in the present response.

New claims 39-57 are added.

Applicant hereby respectfully requests reexamination and reconsideration of the pending claims in light of the amendments and remarks provided herein and in accordance with 37 C.F.R. §1.112.

### **The Office Action's Rejections**

Claims 1, 4, 6-8, 10, 12, 15, 17-19, 21, 23, 28-30, 32, 35, & 38 were rejected as being unpatentable over U.S. Patent No. 6,695,696 to Kaminkow (hereinafter "Kaminkow") in view of U.S. Patent Publication No. 2003/0001338 to Bennett et al. (hereinafter "Bennett"). Applicant respectfully traverses. For the Patent Office to establish *prima facie* obviousness, the Patent Office must show where each and every element of the claim is taught or suggested. MPEP § 2143.03.

Applicant acknowledges the Patent Office's admission that Kaminkow does not teach displaying the non-linear outcome as a straight line. This admission is consistent with Applicant's position throughout the prosecution of the instant application. Applicant further notes that Applicant has already addressed and explained the deficiencies of Bennett relative to the claims in the response filed August 23, 2006. Applicant's previous arguments were persuasive enough that the rejection was withdrawn at that time, and the Patent Office has, as of yet, made no effort to address the deficiencies in the reference identified in Applicant's earlier arguments. Nevertheless, in the interests of creating the record for what appears to be an inevitable appeal, Applicant responds in full.

As noted, the Patent Office admits that Kaminkow does not teach displaying the non-linear outcome as a straight line. The Patent Office asserts that Bennett supplies the missing element. Specifically, the Patent Office asserts "Bennett et al. however teaches displaying in a secondary display an indication of the winning game outcome in a horizontal linear format (figures 7-9)." (Office Action of June 20, 2007, p. 3, lines 4-6). As Applicant explained in the response of August 23, 2006, Bennett does not display a representation of the non-linear

outcome as a linear outcome because the secondary display 18 displays a scorecard 22. The scorecard 22 is “also sometimes referred to as a payable” (Bennett, paragraph 0026). Any interpretation of “a representation of the non-linear outcome as a linear outcome” that includes paytables is so unreasonably broad as to be inconsistent with Applicant’s specification and such an interpretation is improper. MPEP § 2111.01. In short, the references individually do not teach or suggest the claim element. Since the references individually do not teach or suggest the claim element, the combination of references cannot teach or suggest the claim element, and the Patent Office has not established obviousness. Applicant elaborates on the deficiencies of the combination.

The Patent Office must state a reason to combine the references, and then must support the stated reason with sufficient evidence to prove that the Patent Office is not relying on hindsight reconstruction. *KSR v. Teleflex*, 550 U.S. \_\_\_\_ (2007); *In re Dembiczak*, 175 F.3d 994, 999 (Fed. Cir. 1999). However, the Patent Office’s asserted reason to combine the references actually vitiates the motivation to combine the references. Specifically, the Patent Office’s asserted motivation is “to make reading the results of the outcome easier for players.” (Office Action of June 20, 2007, p. 3, lines 8-9). However, Kaminkow has a specifically contemplated solution to make the results of the outcome easier for the players to read. The artisan reading Kaminkow that seeks to make outcomes easier to read would not look past Kaminkow since Kaminkow provides a solution to the problem. Thus, the Patent Office has failed to state and support a motivation to combine the references.

Assuming, *arguendo*, that there is a motivation to combine the references, the combination is quite simply not what is disclosed and claimed. The best way to see the distinction is to see what is created through a combination of the references. Most prior art slot machines (as evidenced by Applicant’s Figure 1) present a payable on the belly glass of the machine. Kaminkow describes gaming device 10 as “having the controls, displays and features of a conventional slot machine” (Kaminkow, col. 5, lines 60-62). So while Kaminkow does not show a payable on either of the two displays, presumably Kaminkow has a payable on the belly glass of the device even though the belly glass is not shown. Kaminkow’s first display has the reels, which produce non-linear outcomes, and the second display has the repeated representations of the non-linear outcomes. A straight forward combination of Kaminkow with Bennett results in Kaminkow’s conventional payable on the belly glass being replaced with

Bennett's payable. This arrangement is not what is claimed. Alternatively, someone might replace Kaminkow's second display with Bennett's payable. However, this arrangement makes Kaminkow unsuitable for its intended purpose since the player no longer can see the isolated paylines.

To arrive at the claim language, the artisan has to modify the repeated representations of the non-linear outcomes in Kaminkow's second display. There is no suggestion to make this modification. Absent such a suggestion, there is no suggestion in the combination of references to include the claim element.

Since the references, alone or in combination, do not teach or suggest the claim element, the Patent Office has not established *prima facie* obviousness. Each of the independent claims 1, 4, 12, 15, 23, 26, & 35 includes the language addressed above. Thus, the Patent Office has not established obviousness for claims 1, 4, 6-8, 10, 12, 15, 17-19, 21, 23, 28-30, 32, 35, & 38. Applicant requests withdrawal of the rejection at this time.

Claims 10, 21, & 32 recite that the second display only displays winning outcomes. Applicant traversed the Patent Office's analysis in the previous response. The Patent Office repeats its assertion that the element is taught, ignoring Applicant's arguments on this point. If the Patent Office wishes to maintain its position, Applicant requests that the Patent Office address Applicant's arguments. The verbatim reuse of the language from the previous Office Action, which was fully addressed in Applicant's response of April 12, 2007 - without addressing any of Applicant's arguments - does not advance prosecution. Applicant has made a good faith effort to address the issue, but the Patent Office is doing a disservice to Applicant by ignoring Applicant's position.

Applicant further notes that in paragraphs 6 and 8 of the Office Action of June 20, 2007, the Patent Office twice admits that Kaminkow does not teach all the elements of claims 6 & 15. This same deficiency existed in the previous Office Action. However, the Patent Office does not use the new Office Action to show where within Bennett the deficiencies are addressed. Thus, claims 6 & 15 have an independent reason why they are non-obvious over the combination of Kaminkow and Bennett.

Likewise, Applicant still further notes that the Patent Office admits that Kaminkow does not show all the elements of claim 26 (see paragraph 9 of the Office Action of June 20, 2007) and points to nothing within Bennett that cures this deficiency. This admission is another

independent reason why claim 26 is non-obvious over the combination of Kaminkow and Bennett.

Claims 6, 9, 15, 20, 26, & 31 were rejected under 35 U.S.C. § 103 as being unpatentable over Kaminkow in view of Bennett and further in view of U.S. Patent Publication No. 2003/0060268 to Falconer (hereinafter "Falconer").

Claims 6, 11, 15, 22, 26, & 33 were rejected under 35 U.S.C. § 103 as being unpatentable over Kaminkow in view of Bennett and further in view of U.S. Patent Publication No. 2004/0192431 to Singer et al. (hereinafter "Singer").

While the Patent Office has added Bennett to the introduction paragraphs for these rejections, the analysis of the rejections is identical to that presented in the last Office Action. Applicant has herein explained how the combination of Kaminkow and Bennett does not show displaying the non-linear outcome as a linear outcome. This is the same deficiency that Applicant identified in the previous Office Action for the rejections based on Kaminkow. Applicant requests that the arguments advanced in the previous response be considered as if set forth fully herein. If the Patent Office is going to rely on arguments previously rebutted by Applicant, Applicant requests that the Patent Office extend Applicant the courtesy of responding to Applicant's arguments.

Claims 26 & 34 were rejected under 35 U.S.C. § 103 as being unpatentable over Kaminkow in view of U.S. Patent Publication No. 2003/0186736 to Benbrahim (hereinafter "Benbrahim"). Applicant respectfully traverses.

Applicant notes that the Patent Office does not even bother to insert Bennett into the introduction of this rejection, but has merely reproduced the language from the previous Office Action without addressing Applicant's response thereto. Applicant requests that the arguments advanced in the previous response be considered as if set forth fully herein. Again, if the Patent Office is going to rely on arguments previously rebutted by Applicant, Applicant requests that the Patent Office extend Applicant the courtesy of responding to Applicant's arguments.

#### **New Claims**

While Applicant respectfully maintains that the Patent Office's interpretation of the

combination of Kaminkow and Bennett is unreasonable beyond what is permitted by the rules, Applicant adds new claim 39 which recites that the representation is not a payable. As Bennett is clearly a payable, and Kaminkow admittedly does not teach the element, the combination does not show this claim element.

Likewise, new claim 40 is added which recites that “*the second display is operable to display the linear outcome because the non-linear outcome was displayed on the first display.*” Clearly, the payable of Bennett is not displayed because the non-linear outcome was displayed on the first display.

New claim 41 recites that the plurality of non-linear outcomes are displayed as linear outcomes substantially concurrently. Support for this can be found in at least Fig. 6C. As previously argued, Kaminkow teaches his display of outcomes is done in a temporally sequential fashion, and does not present the outcomes substantially concurrently. Thus, any combination based on Kaminkow retains this temporal element that distinguishes the claim from such a combination.

New claim 42 recites that the second display segregates representations of the winning outcomes from the non-winning outcomes while displaying both substantially concurrently. Support for this claim can be found in at least original claim 11. Kaminkow only displays the winning outcomes on the second display as argued elsewhere, so Kaminkow does not show the element. Likewise, the payable of Bennett only shows winning outcomes, so it does not show the element. Since the references individually do not teach or suggest the element, the combination cannot teach or suggest the element.

New claim 43 recites using the second display to create a payable. Support for this new claim is found in at least paragraph 0115 of the application as published. No new matter is added.

New claim 44 recites providing a textual explanation of why an outcome is or is not a winning outcome. Support for this new claim can be found in at least paragraph 0123 of the application as published. No new matter is added.

New claims 45-46 recite providing an indication of outcomes on which the wager was not placed. Support for these new claims can be found in at least paragraph 0111 of the application as published. No new matter is added.

New claim **47** recites activation of the paylines using the second screen. Support for this new claim can be found in at least paragraph 0111 of the application as published. No new matter is added.

New claims **48-51** recite various ways in which the second display may be controlled and integrated into the slot machine. Support for these new claims can be found in at least paragraph 0116 of the application as published. No new matter is added.

New claim **52** recites displaying a payout per payline. Support for this new claim can be found in at least paragraphs 0111 and 0120 of the application as published. No new matter is added.

New claim **53** recites that the player can toggle the functions of the second display on and off. Support for this new claim can be found in at least paragraph 0114 of the application as published. No new matter is added.

New claim **54** recites that the player can request more information about an outcome. Support for this new claim can be found in at least paragraph 0124 of the application as published. No new matter is added.

New claims **55-57** are a new method claim that provides an alternate explanation of how the original non-linear payline is presented and then rearranged on the second display. Claims **56 & 57** provide more information about a player requesting additional information about the outcome. No new matter is added.

## **Conclusion**

Applicant repeats its request that if the Patent Office wishes to maintain its interpretation of a particular reference when that interpretation has been rebutted in Applicant's responses, then the Patent Office should, rather than dismiss the arguments as moot, explain why Applicant's arguments are incorrect or how the new reference addresses those arguments. The Patent Office's failure to do so in the present Office Action is not helpful in advancing prosecution.

At least for the foregoing reasons, it is submitted that all claims are now in condition for allowance, or in better form for appeal, and the Examiner's early re-examination and reconsideration are respectfully requested.

Alternatively, if there remain any questions regarding the present application or the cited reference, or if the Examiner has any further suggestions for expediting allowance of the present

application, the Examiner is cordially requested to contact Taylor M. Davenport at telephone number 203-461-7228 or via electronic mail at [tdavenport@walkerdigital.com](mailto:tdavenport@walkerdigital.com), at the Examiner's convenience.

**Authorization to Charge Fees**

Applicant does not believe an extension of time to make this Amendment and Response timely is necessary. However, should an extension of time be necessary, please grant a petition of an extension of time necessary to make this submission timely. Additionally, please charge any fees, including any fees due for the additional claims added in this response, that may be required for this submission as follows:

Deposit Account: 50-0271

Order No. 03-013

Charge any additional fees or credit any overpayment to the same account.

Respectfully submitted,

September 20, 2007

Date

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